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Changes to Probationary Teacher Status Take Effect This Year

by M. Scott Major

Administrators and probationary teachers may have forgotten that changes go into effect this year that alter the way career teacher status is earned. These changes affect all probationary teachers hired during the 2017-18 school year and thereafter. Attaining the position of career teacher will likely take probationary teachers one year longer than their colleagues hired before 2017-18.

As a result of implementation of the Teacher and Leader Effectiveness Evaluation System (TLE), the definition of "career teacher" in OKLA. STAT. tit. 70, § 6-101.3 determines whether a probationary teacher hired during 2017-18 will earn career status this year. Under Section 6-101.3(4)(a), probationary teachers hired *before* the 2017-18 school year will become

career teachers if they complete three (3) or more consecutive complete school years as a teacher in one school district under a written continuing or a temporary teaching contract. Current probationary teachers who do not meet this requirement will not become career teachers this year unless they meet the second definition of "career teacher," found in Section 6-101.3(4)(b).

For probationary teachers hired during the 2017-18 school year and thereafter, attainment of career teacher status will likely take four years—one year longer than it took many of their colleagues. However, it is still possible for them to achieve career status in their first three years if they meet the following requirements: 1) complete

three (3) consecutive school years as a teacher in one school district under a written continuing or temporary teaching contract; 2) and achieve a district evaluation rating of "superior" for at least two (2) of those three (3) school years.* For the majority, attaining career status will take at least another year.

Those probationary teachers hired during or after the 2017-18 school year will now become career teachers via one of two paths. First, under Section 6-101.3(4)(b)(2), they must meet the following criteria: 1) complete four (4) consecutive complete school years in one school district**; 2) average a district evaluation rating of *at least* "effective" for the four-year period*; and 3) receive district evaluation ratings of *at least* "effective" for the last two (2) years of the four-year period. However, should a probationary teacher fail to meet those requirements, there is a second path which requires the intervention of district administrators and the board of education.

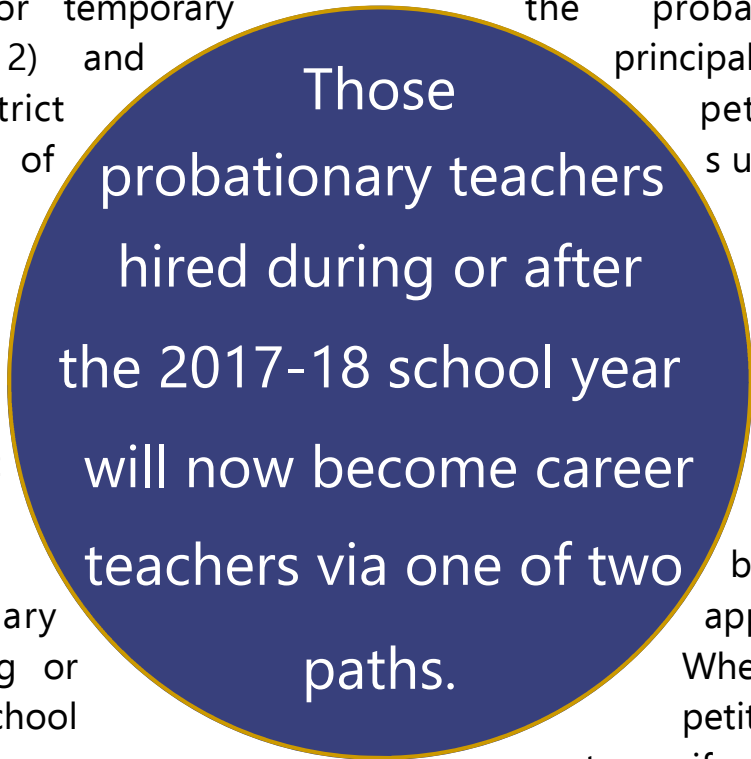
Pursuant to Section 6-101.3(4)(b)(3), if a probationary teacher fails to attain career status under the above criteria after the fourth year of probationary teaching in one school district, then that teacher can

become a career teacher at the end of the fourth year only if the following occur: 1) the probationary teacher's principal must submit a petition to the superintendent requesting that the teacher be granted career status; 2) the superintendent agrees with the petition; and 3) the school district's board of education approves the petition. When drafting the petition, the principal must specify the underlying facts which support the granting of career status.

Because these new requirements go into effect this year for probationary teachers hired during the 2017-18 school year and thereafter, it is important for administrators to be aware of these new requirements and to communicate them to their probationary teachers. *If you have any questions regarding these now-effective career teacher requirements under TLE, please contact your school district's attorney.*

* Measured by TLE.

** Under a written continuing or temporary teaching contract.



Providing Assessment Reports to Parents Ahead of IEP Meetings to Ensure Parent Participation

by Cheryl A. Dixon

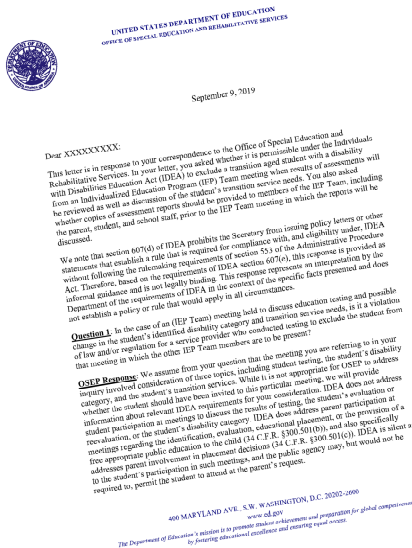
The Office of Special Education Programs (OSEP) issued a Letter to Anonymous on September 9, 2019, in which OSEP addressed whether assessment results are required to be shared with parents prior to an IEP team meeting where the report(s) will be discussed. This is also a question I often get from school districts. Although OSEP did not provide any definitive answer, there are some guidelines to consider in determining whether assessment reports should be provided prior to team meetings.

OSEP points out that under the IDEA's implementing regulations, a copy of all assessment/evaluation reports must be provided to the student's parents at no cost. However, neither the IDEA nor its implementing regulations establish a timeline for providing a copy of the assessment report to parents. Similarly, the IDEA does not prescribe a timeline for sharing the results of assessments conducted as part of the student's evaluation or reevaluation. OSEP concluded

that whether parents receive copies of evaluation reports prior to the IEP Team meeting is a decision that is left to State and local officials to make.

OSEP emphasized the importance of ensuring that parents have the information they need to meaningfully participate in their student's IEP Team meetings, which may include reviewing their student's records prior to an IEP meeting. School districts must comply with a parent's request to inspect and review existing educational records, including an assessment report, "without unnecessary delay and before any meeting regarding an IEP, and in no case more than 45 days after the request has been made." Therefore, in the event a parent specifically requests a copy of an assessment report prior to a meeting it would be a best practice to get a copy to the parent, if the report is available beforehand.

In Letter to Anonymous, OSEP also recognized that some States have established procedures that require public agencies to provide parents with copies of assessment reports prior to the IEP Team meeting, and reminded districts to check with your State's educational agency for any applicable procedures.



The full OSEP letter can be accessed at: <https://www2.ed.gov/policy/special-ed/guid/idea/memosdcltrs/osep-letter-to-anonymous-09-09-2019.pdf>. If you have any questions about this issue, or any special education issue, please contact your school district's attorney.

Data Sharing Agreements under FERPA

by Adam S. Breipohl

Oklahoma school districts are facing an increased number of requests from entities such as universities and nonprofit organizations for access to student data for purposes such as academic research or facilitating coordination between government entities. Cooperation with such requests can be permissible in many cases if the district and the requesting entity enter into a "data sharing agreement," a type of written contract providing for the specific terms upon which protected student data may be shared and measures that will be used to ensure its confidentiality is maintained. However, districts should also be aware that such agreements must comply with a number of legal requirements under the Family Educational Rights and Privacy Act ("FERPA").

Two provisions of FERPA authorize school districts to enter into data sharing agreements with outside entities; unless

a proposed agreement falls within one of those provisions, it is not legally permissible to enter into a data sharing agreement involving disclosure of FERPA-protected information to the other party.

First, the "studies exception" allows for the disclosure of information from education records to organizations conducting studies for or on behalf of certain educational institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction. For example, this exception would authorize a school district to enter into an agreement to disclose information from education records to a university conducting a study that compares program outcomes across school districts, with the goal of replicating the results of the most successful programs in other districts.

The "audit or evaluation" exception allows for the disclosure to authorized representatives of certain government entities (e.g. the United States Department of Education or other state or local educational authorities) in order to evaluate a federal or state-supported education program or enforce or comply with federal legal requirements related to the program. For example, this exception would authorize an agreement under which a university discloses transcript data on its students who graduated from a particular school district to that district

so it can evaluate how effectively its students were prepared for postsecondary education.

Both the studies and audit/evaluation exceptions require the district and the receiving entity to enter into a written contract governing the terms of their arrangement, i.e., a data sharing agreement. FERPA further requires that data sharing agreements include certain specific contract terms designed to safeguard student privacy. For example, agreements must require the receiving entity to destroy all student data once it is no longer necessary to retain that data to complete the purpose of the agreement, and there must be a specific deadline for this process to be completed. Finally, even if the legally required elements are present in a proposed data sharing agreement,

districts must still evaluate the agreement as a whole and determine whether it adequately protects the district's interests and the privacy rights of its students.

Overall, while data sharing agreements can be a useful tool to facilitate cooperation among stakeholders in the world of public education, districts should remain cognizant of the many legal requirements that apply to data sharing agreements and exercise appropriate caution when considering whether to enter into such agreements.

If districts have questions about data sharing agreements or FERPA compliance, RFR is here to help. Your RFR attorney can guide you through crafting policies and practices that comply with FERPA and other applicable law.

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We welcome your comments, criticisms and suggestions. Correspondence should be directed to: Rosenstein, Fist & Ringold, 525 South Main, Seventh Floor, Tulsa, Oklahoma 74103-4508, or call (918) 585-9211 or 1-800-767-5291. Our FAX number is (918) 583-5617. Help us make *Chalkboard* an asset to you.